



Senate

General Assembly

File No. 631

February Session, 2016

Substitute Senate Bill No. 349

Senate, April 14, 2016

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PRIVACY OF A MINOR.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 29-6d of the 2016 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (g) (1) Except as otherwise provided by any agreement between a
5 law enforcement agency and the federal government, no police officer
6 shall use body-worn recording equipment to intentionally record [(1)]
7 (A) a communication with other law enforcement agency personnel,
8 except that which may be recorded as the officer performs his or her
9 duties, [(2)] (B) an encounter with an undercover officer or informant,
10 [(3)] (C) when an officer is on break or is otherwise engaged in a
11 personal activity, [(4)] (D) a person undergoing a medical or
12 psychological evaluation, procedure or treatment, [(5)] (E) any person
13 other than a suspect to a crime if an officer is wearing such equipment
14 in a hospital or other medical facility setting, or [(6)] (F) in a mental
15 health facility, unless responding to a call involving a suspect to a

16 crime who is thought to be present in the facility.

17 (2) No record created using body-worn recording equipment of (A)
 18 an occurrence or situation described in [subdivisions (1) to (6)]
 19 subparagraphs (A) to (F), inclusive, of subdivision (1) of this
 20 subsection, [shall be deemed a public record for purposes of section 1-
 21 210. No record created by a police officer using body-worn recording
 22 equipment of (A) the] (B) a scene of an incident that involves (i) a
 23 victim of domestic or sexual abuse, [or (B)] (ii) a victim of homicide or
 24 suicide, or (iii) a deceased victim of an accident, if disclosure could
 25 reasonably be expected to constitute an unwarranted invasion of
 26 personal privacy in the case of any such victim described in this
 27 subparagraph, or (C) a minor, shall be subject to disclosure under the
 28 [provisions of section 1-210 to the extent that disclosure of such record
 29 could reasonably be expected to constitute an unwarranted invasion of
 30 personal privacy] Freedom of Information Act, as defined in section 1-
 31 200, and any such record shall be confidential, except that a record of a
 32 minor shall be disclosed if (i) the minor and the parent or guardian of
 33 such minor consent to the disclosure of such record, (ii) a police officer
 34 is the subject of an allegation of misconduct made by such minor or the
 35 parent or guardian of such minor, and the person representing such
 36 officer in an investigation of such alleged misconduct requests
 37 disclosure of such record for the sole purpose of preparing a defense to
 38 such allegation, or (iii) a person is charged with a crime and defense
 39 counsel for such person requests disclosure of such record for the sole
 40 purpose of assisting in such person's defense and the discovery of such
 41 record as evidence is otherwise discoverable.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	29-6d(g)
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Statement of Legislative Commissioners:

In Section 1, subsection (g) was subdivided into subdivisions and subdivision (2) was reorganized for clarity.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes police body camera recordings of a minor confidential, with certain exemptions, from disclosure by the Freedom of Information Act. This will not result in a fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 349*****AN ACT CONCERNING THE PRIVACY OF A MINOR.*****SUMMARY:**

This bill modifies the applicability of the Freedom of Information Act (FOIA) to recordings made by police body cameras. It generally makes body camera recordings of a minor confidential but requires disclosure if:

1. the minor and his or her parent or guardian consent to disclosure;
2. the minor or his or her parent or guardian alleges police misconduct, and the person representing the accused officer in an investigation requests disclosure solely to prepare a defense; or
3. a person is charged with a crime and his or her counsel requests disclosure solely to aid in the person's defense, provided the record's discovery as evidence is otherwise allowed (see BACKGROUND).

The bill also modifies provisions on disclosing recordings of the scene of an incident involving a domestic abuse, sexual abuse, homicide, suicide, or deceased accident victim. Current law exempts these recordings from disclosure under FOIA if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy. The bill (1) limits this provision to protect only the victim's personal privacy from invasion and (2) makes these recordings confidential (presumably, this means they must be withheld). Under current law, it is unclear whether a recording could be withheld because of its effect on the personal privacy of another

person, such as a victim's family member.

Under current law, certain recordings that the law generally prohibits officers from capturing on body cameras are not subject to disclosure under FOIA. The bill makes these recordings confidential. As under current law, the recordings consist of the following:

1. communications with other law enforcement personnel unless within the performance of their duties;
2. encounters with undercover officers or informants;
3. officers on break or engaged in personal activity;
4. people undergoing medical or psychological evaluations, procedures, or treatment;
5. people, other than suspects, in a hospital or medical facility; or
6. in mental health facilities, unless responding to a call involving a suspect in such facilities.

By law, body camera recordings not referred to in the bill are subject to disclosure under FOIA unless they meet a generally applicable FOIA exemption.

EFFECTIVE DATE: Upon passage

BACKGROUND

Relationship Between FOIA and Discovery

The law, unchanged by the bill, provides that FOIA must not be deemed to limit the rights of litigants under the state's discovery laws (CGS § 1-213(b)(1)). In *Chief of Police, Hartford Police Department v. Freedom of Information Commission* (252 Conn. 377 (2000)), the Connecticut Supreme Court held that requests for records under FOIA are determined by the provisions of FOIA, irrespective of whether they are disclosable under the rules of discovery.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 3 (03/28/2016)